

Jun 14, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JESSE REYES; DANIEL REYNOSO;
LEAGUE OF UNITED LATIN
AMERICAN CITIZENS; and LATINO
COMMUNITY FUND OF
WASHINGTON,

Plaintiffs,

v.

BRENDA CHILTON, in her official
capacity as Benton County Auditor and
Canvassing Review Board member;
ANDY MILLER in his official capacity as
Benton County Canvassing Review Board
member; CHARLES ROSS, in his official
capacity as Yakima County Auditor and
Canvassing Review Board Member;
JOSEPH BRUSIC, in his official capacity
as Yakima County Canvassing Review
Board member; RON ANDERSON; in his
official capacity as Yakima County
Canvassing Review Board member; SKIP
MOORE, in his official capacity as Chelan
County Auditor and Canvassing Review
Board member; and BOB BUGERT in his
official capacity as Chelan County
Canvassing Review Board member;
JEROME DELVIN, in his official
capacity as Benton County Canvassing
Review Board Member; and ROBERT
SEALBY,

Defendants.

No. 4:21-CV-05075-MKD

ORDER SETTING SETTLEMENT
CONFERENCE

--- ACTION REQUIRED ---

Settlement Offer due: 06/21/2023
Response to Offer due: 06/23/2023
In Camera Letters due: 06/30/2023
Settlement Conference: 07/17/2023

1 By referral from the Honorable Mary K. Dimke, ECF No. 106, and with the
2 consent of the parties to this action, a settlement conference shall commence on
3 **Monday, July 17, 2023 at 9:00 a.m.**, before the undersigned, in Courtroom 102,
4 1st Floor of the William O. Douglas Federal Building, 25 South Third Street,
5 Yakima, Washington 98901.

6 The purpose of the settlement conference is to permit an informal discussion
7 among the attorneys, parties, non-party indemnitors or insurers, and this magistrate
8 judge of every aspect of the lawsuit bearing on its settlement value.

9 **Mediation Format**

10 Settlement conferences typically are scheduled for a full, uninterrupted
11 business day. The court generally will use a mediation format: that is, a joint
12 session with opening presentations to the court by each side, followed by private
13 caucusing by the court with each side. The court expects the parties and the party
14 representatives to be fully prepared to participate. The court encourages all parties
15 to keep an open mind, to reevaluate their previous positions, and to discover
16 creative means for resolving the dispute.

17 Unless previously excused by the undersigned, for good cause, counsel who
18 will try the case, and all named parties, must be physically present at this
19 conference and **ready to proceed at 9:00 a.m.** The person with full settlement
20 authority must be available and must have the ability, within his or her discretion,
21 to permit payment in full of the request for relief under the claims, counterclaims,
22 and cross-claims, up to the limits of the opposing parties' settlement demand that is
23 produced as a result of this order as provided below.

24 **The Court has considered the request for Plaintiffs to appear remotely.**
25 **Given the importance of personal presence at settlement, the gravity and**
26 **responsibilities of instituting a federal action, and the ability to plan for the**
27 **appearance over a month in the future, the Court must respectfully decline**
28 **the request.**

1 The parties are responsible for timely advising any involved non-party
2 insurance company of the requirements of this Order. This magistrate judge may,
3 in his discretion, converse with the lawyers, the parties, the insurance
4 representatives, or any one of them, outside the hearing of the others prior to and
5 during the conference.

6 Submissions

7 On or before **June 21, 2023**, Plaintiffs shall serve upon Defendants, with an
8 *in camera* copy to the undersigned, a written offer of settlement, which includes
9 monetary and non-monetary components, if any, with supporting reasons, and with
10 an itemization of Plaintiffs' damages, unless an itemization of damages previously
11 has been provided. On or before **June 23, 2023**, Defendants shall serve
12 Defendants' counter-offer and supporting reasons upon Plaintiffs, and provide an
13 *in camera* copy to the undersigned court. Copies shall be emailed to:

14 EkstromOrders@waed.uscourts.gov

15 Failure to comply with this requirement may result in cancellation or
16 rescheduling of the settlement conference.

17 In preparation for the settlement conference, each party shall submit an *in*
18 *camera* letter, labeled confidential, to the undersigned on or before **June 30, 2023**.
19 Do not file copies of these letters on the court docket, and do not serve these
20 letters on the opposing party. The *in camera* letters shall set forth the following:

- 21 a. Name and title of the client who will be present throughout the
22 conference and will be authorized to enter into a settlement agreement, and
23 the names and titles of any other persons who will accompany the party to
24 the conference;
- 25 b. A brief analysis of key issues involved in the litigation;
- 26 c. A description of the strongest and weakest points in the party's case,
27 both legal and factual (the parties are invited to include as letter attachments
28 copies of key depositions);

1 d. A description of the strongest and weakest points in the opponent's
2 case, both legal and factual;

3 e. Itemization of damages, fees, and costs;

4 f. Status of any settlement negotiations, including the last settlement
5 proposal made by the party and opposing parties;

6 g. Settlement proposal the party believes to be fair; and

7 h. Settlement proposal the party is willing to accept to conclude the
8 matter and stop the expense of litigation.

9 *In camera* copies shall be emailed to: EkstromOrders@waed.uscourts.gov

10 Failure to submit an *in camera* letter may result in cancellation or rescheduling of
11 the settlement conference.

12 All communications made in connection with the settlement conference are
13 confidential and will not be disclosed. Any documents requested and submitted for
14 the settlement conference will be maintained in chambers and will be destroyed
15 after the conference. Neither the settlement conference statements nor any
16 communications occurring during the settlement conference can be used by any
17 party with regard to any aspect of the litigation or trial of this case.

18 **Other Protocols**

19 The court expects the parties to address each other with courtesy and respect.
20 Parties are encouraged to be frank and open in their discussions. As a result,
21 statements made by any party during the settlement conference are not to be used
22 in discovery and will not be admissible at trial.

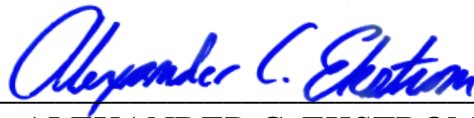
23 The court further expects the parties to proceed in good faith, to anticipate a
24 settlement, and have available at the time of the conference a "settlement
25 agreement" in a form acceptable to them for signature by all parties when a
26 settlement is reached.

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1 **IT IS SO ORDERED.**

2 DATED June 14, 2023.

A handwritten signature in blue ink, reading "Alexander C. Ekstrom", is written over a horizontal line.

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE